

**Jerry A. Behnke**

**Gary Burcham,**

**ADDENDUM TO THE PRESENTENCE REPORT**

**In the Matter of Carlos DOMINGUEZ-Maroyoqui  
Docket No. 12CR4235-001-LAB**

**Date: January 28, 2013**

**Time: 9:30 a.m.**

The probation officer certifies that the PSR has been disclosed to the defendant, defense counsel, and counsel for the government, and that the content of the addendum has been communicated to counsel.

**OBJECTIONS**

**By the Government**

None.

**By the Defendant**

The defendant, through his counsel Gary Burcham, filed objections to the presentence report on January 14, 2013.

**Factual Dispute(s)**

1. **PSR Page 5, Paragraph 18**: The defendant objects to the version of events depicted regarding this arrest.

**Guideline Dispute(s)**

1. **PSR Page 4, Paragraph 9**: The defendant maintains this conviction has not been proven to be a crime of violence.

**Probation Officer's Response**

**Factual Dispute(s)**

**Guideline Dispute(s)**

1. The narrative regarding the events that took place during the assault on a federal officer conviction was derived from the PSR completed in Docket Number 03CR03534-001-BTM, which can be made available to the parties at the Court's direction. As the defendant declined to

discuss any prior arrests during the presentence interview, the undersigned has no additional information to support or refute the defendant's statements now or the veracity of the events as they are depicted in the PSR.

2. The PSR for the prior conviction in question (Docket Number 96-CR00539-001-BTM) is also available for the Court's review. It is noted that, in the factual basis of the plea agreement (a judicially noticeable document) for that case, the defendant admitted the following: "That on January 4, 1996, within the Southern District of California, defendant kicked and hit Border Patrol Agents David Astle, Dean Kuckkahn and Christopher Bush while those agents were attempting to arrest defendant for illegally entering the United States." It does not appear that actual arrest reports and additional discovery materials were retained. As the defendant notes, a crime of violence includes "any other offense...that has an element the use, attempted use, or threatened use of physical force against the person of another." Therefore, it appears the prior conviction for assault on a federal officer meets this requirement and is supported by judicially noticeable documents.

### **SUMMARY AND CONCLUSION**

The defendant's objections are noted. No changes are recommended to the PSR.

**Respectfully submitted,**

**DAVID J. SULTZBAUGH  
CHIEF PROBATION OFFICER**

**By:**



**For P. Van Campen  
U.S. Probation Officer**

**Reviewed and Approved:**



---

**Barbara C. Logan  
Supervising U.S. Probation Officer  
Date: January 17, 2013  
/pav**